compelled to file a competing application in order to impede its competitor's plans. Others might file in the hope of gaining an interest via a settlement merger. The prospect of such competing applications would serve as an enormous disincentive to pursue operation of the facility by another local licensee. Therefore, insulating such applications from competing applications would make far more sense than MAP appears to realize.

VI. Substantial Reasons Exist for Permitting Common Ownership of Stations With No Grade A Contour Overlap.

LSOC has urged the Commission to permit common ownership of two stations in the same DMA provided their Grade A contours do not overlap.[42] Several parties have provided compelling examples of how such a rule would serve the public interest. Kentuckiana cites concerns with large DMAs and urges that the Commission permit common ownership under a test similar to the ADI-modification test used for purposes of the Commission's must carry rules.[43] Such an elaborate response generally would be unnecessary under LSOC's proposal. Stations located at the fringes of an ADI typically would suffer no Grade A overlap with stations at the core of an ADI. Rather than jump through the requisite regulatory hoops to gain an ADI (DMA) modification, the licensee of a fringe station could acquire a core station or another fringe station without so much as seeking a waiver.

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[42]LSOC(97) at 70.

[43]Kentuckiana at 4-5.

Sunbelt Communications Company also cites several examples of large DMAs, where stations are licensed to communities hundreds of miles apart.[44] Again, LSOC's proposal would provide a realistic solution. Stations in the same DMA, but hundreds of miles apart could be commonly owned (assuming, of course, no Grade A contour overlap).

None of this is to suggest that the DMA is not the best market definition for purposes of the duopoly rule. No market definition is perfect, to be sure, but the DMA, particularly when coupled with LSOC's proposal that common ownership of two stations with no Grade A overlap be permitted, is as sound an approach to market definition as the Commission could hope for.

VII. No Valid Rationale Has Been Offered for Placing Limits on the Duration Of LMAs or Duopoly Waivers.

Several parties wish to place arbitrary time limits on grandfathered LMAs and duopoly waivers.[45] Beyond the fact any such limit is inherently arbitrary, their proposals rest on an unsound foundation. One would place limits only on evil, not

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[44]Comments of Sunbelt Communications Company, MM Docket No. 91-221 (filed February 7, 1997) at 7-9.

[45]*See, e.g.*, MAP at 29-30; Viacom at 10; ABC at 19.

on good.[46] Therefore, these parties must consider LMAs and duopoly waivers bad. The record in this proceeding fails to lend a scintilla of support for their saturnine view of LMAs and duopolies. To the contrary, the record reveals that LMAs (and duopolies) are benevolent creatures of a marketplace characterized by more competition and diversity than the Commission might ever have hoped to preserve when it adopted the duopoly rule over 30 years ago.

VIII. Conclusion

The Commission has pondered the implications of relaxing the duopoly rule long enough. Now, the Commission must act. The record before it fails to provide any support for maintaining the current prohibition on common ownership of two

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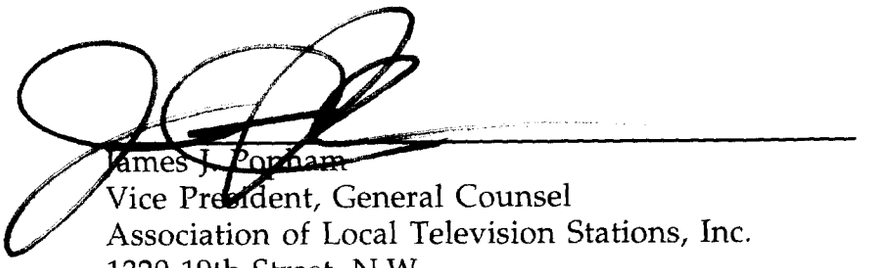
[46]MAP's contention (MAP at 28) that LMAs are "arguably illegal" is fanciful. First, Congress expressly grandfathered LMAs in light of their benefits. *See* LSOC(97) at 85-87. Second, the Commission has acknowledged the existence of LMAs and even approved transactions in which LMAs were prominent features. *See, e.g., Pears Broadcasting, Inc.*, 11 FCC Rcd 5776 (1996). Thus, Congress and the Commission consistently have acted in a manner which only confirms the legality of LMAs. *See, e.g., Estrella Brillante Ltd.*, 5 Comm. Reg. 938 (Mass Med. Bur. 1996) ("We have consistently held that a licensee's participation in a time brokerage or local marketing agreement, does not per se constitute an unauthorized transfer of control or a violation of the Act or any Commission rules or policies. See, e.g., WGPR, Inc., 10 FCC Rcd 8141 (1995); Roy R. Russo, Esquire, 5 FCC Rcd 7586 (MMB 1990); Joseph A. Belisle, Esquire, 5 FCC Rcd 7585 (MMB 1990)"). *See also Notice of Proposed Rule Making*, MM Docket Nos. 94-150 *et al.*, 10 FCC Rcd 3606, 3650 (1995) ("Television broadcasters are also permitted to enter into LMAs...."). Moreover, parties have relied on the basic legality of LMAs in structuring extended, multi-term agreements. Often, the substantial payments reflect consideration for the ability to renew or extend the term of a contract. The Commission, particularly in light of Congress's directive to grandfather LMAs, hardly may undo and upset extended LMAs entered into in reliance on the Commission's unambiguous policies at the time they were entered into by the parties.

stations in the same market. Delay itself, therefore, is offensive. Furthermore, the benefits of relaxation of the rule, amply supported in the record, are denied the public.

LSOC, therefore, reiterates its call for prompt and substantial relaxation of the rule.

Respectfully submitted,



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